

GENERAL GLOSSARY

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ABANDONMENT

The surrender, relinquishment, disclaimer or cession of property or rights. An action whereby a child is sought to be freed from parental custody and control.

ABATE

To put an end to; nullify.

ABROGATE

To annul or repeal a former law by the passage of a new one.

ABSTRACT

Abstract of Judgment (Civil Division) -- a form which lists the amount of money awarded through judgment or decree, the court in which the award or order was entered and the date, the names of the judgment debtor and creditor, and other specified information. This document is then recorded, placing a lien against any real property the judgment debtor may have in that county, and providing the judgment creditor an additional means of securing satisfaction of a money judgment.

DMV Abstract (Criminal and Juvenile Traffic Divisions) -- a form which is completed to notify the Department of Motor Vehicles in Sacramento of the disposition of violations of specified sections of the Vehicle Code.

State Prison Commitment Abstract of Judgment (Criminal Division) -- Form completed and submitted to the Department of Corrections which lists the count(s), charges(s), and sentence(s) imposed on a defendant when being committed to State Prison.

ACCOMPLICE

A person who knowingly, voluntarily, and with common intent with the principal offender unites in the commission of a crime.

ACCOUNTING

An act or system of making up or settling accounts; a statement of account, or a debit and credit in financial transactions. PROBATE Final Accounting, Report and Distribution.

ACCUSATION

A formal charge against a person, to the effect that he is guilty of a punishable offense, laid before a court or magistrate having jurisdiction to inquire into the alleged crime.

ACCUSED

The person charged with a crime.

ACKNOWLEDGMENT

A declaration or avowal of one's act, or a fact to give it legal validity, especially before a duly qualified public officer.

ACQUITTAL

The legal and formal certification of the innocence of a person who has been charged with a crime.

ACTION

An ordinary proceeding in a court of justice by which one party prosecutes another for the enforcement or protection of a right, redress, or prevention of a wrong, or the punishment of a public offense.

ADD-ON

Used to refer to an additional matter which is being added onto a specific calendar at a time subsequent to the initial preparation of the calendar.

ADDENDUM

A thing added or to be added.

ADDITUR

The power of a trial court to assess damages or increase the amount of an inadequate award made by jury verdict, as a condition of denial of motion for new trial, with the consent of defendant, whether or not plaintiff consents to such action.

ADJECTIVE LAW

Rules of procedure or administration as distinguished from rules of substantive law.

ADJOURNMENT

The act of a court in putting off or postponing business or a session until another time or place.

ADJUDICATE

To exercise judicial authority in settling a case.

AD LITEM

For the suit; for purposes of the suit; pending the suit. (see "GUARDIAN AD LITEM")

ADMINISTRATION

The act of managing or taking charge of the assets and liabilities of a decedent when there is no will.

ADMINISTRATOR

A person appointed by the court to administer (i.e., manage or take charge of) the assets and liabilities of a decedent. Such person may be male (administrator) or female (administratrix). One appointed by the court to settle the estate of an intestate decedent. A General Administrator is one who is appointed to generally administer the entire estate. A Public Administrator is a public officer who administers estates where there is a failure of heirs or other persons competent to act. A Special Administrator is a person appointed to take temporary charge of the estate until general letters are issued.

ADMINISTRATOR WITH WILL ANNEXED

One appointed administrator of deceased's estate after executors named in will have refused to or unable to act as or if will does not name an executor.

Administrator of the estate of a testate decedent, but not named in the will to act as such.

ADMIT / ADMISSION

The voluntary acknowledgement that certain facts do exist or are true

ADMONISH

To reprimand or warn a person to refrain from certain conduct. For example, the defendant is admonished by the Court not to annoy or harass the witness.

ADMONITION

Any authoritative oral communication or statement by way of advice or caution by the Court to the jury respecting their duty or conduct as jurors, and the purpose for which evidence may be considered.

ADOPTION

A judicial act creating between two persons certain relations, purely civil, of paternity and filiations.

ADVERSE PARTY

A party who, by the pleadings, is arrayed on the opposite side.

ADVERSE POSSESSION

The actual, open, and notorious possession of real property, for a continued period of time, held adversely and in denial and in opposition to the title of any other claimant.

AFFIANT

One who makes oath to a statement.

AFFIDAVIT

A written declaration, under oath, made without notice to the adverse party.

AFFIDAVIT OF SERVICE

An affidavit intended to certify the service of a writ, notice, or other document.

AFFIRM

To make declaration under pain and penalty of perjury that certain facts are true.

AGE OF MAJORITY

The age when a person acquires all the rights and responsibilities of being an adult. In California, as in most states, the age is 18.

AGGRAVATION

Any circumstance attending the commission of a crime which increases its enormity or adds to its injurious consequences.

ALIMONY

(See Spousal Support)

ALLEGATIONS

Charges contained in the accusatory pleading.

ALTERNATE DISPUTE RESOLUTION

Alternative Dispute Resolution ("ADR") refers to any means of settling disputes outside of the courtroom. ADR typically includes arbitration, mediation, early neutral evaluation, and conciliation

AMEND

To change or revise.

Amended replaces original

Amendment add to original

ANNULMENT

To nullify, cancel, abolish; to make void by competent authority. An annulment differs conceptually from a divorce in that a divorce terminates a legal status whereas an annulment establishes that a marital status never existed.

ANSWER

Formal written statement made by a defendant setting forth the grounds of his defense.

APPEAL

The act of removing a case to a higher court for review and revision of the lower court's judicial action.

APPEAL BOND

The bond given on taking an appeal, by which the appellant and his/her sureties are bound to pay damages and costs if he/she fails to prosecute the appeal with success.

APPEARANCE

A coming into court as a party to a suit, whether as plaintiff, defendant, or intervenor. The filing of a pleading constitutes an appearance.

APPELLANT

The party who takes an appeal from one court of jurisdiction to another.

APPELLATE COURT

A reviewing court; not a "trial court".

ARBITRATION

The submission of a matter to an impartial (third) person chosen by the parties, called an arbitrator, who shall be empowered to render an award, thereby avoiding the formalities, delay, and expense of litigating the cause in the courts.

ARRAIGNMENT

The hearing at which a defendant is brought before the court and the charges are read to him/her. At this time, the defendant is asked to enter a plea.

ARRAIGNMENT FOR JUDGMENT

The proceeding at which the defendant is informed of the nature of the charge against him and of his plea and or verdict, and asks if the defendant has any legal cause to show why judgment should not be pronounced against him.

ARREST

To deprive a person of his liberty by legal authority. Taking a person into custody for the purpose of holding him/her to answer on a criminal charge or civil demand.

ASSIGNEE

(a) A person to whom a claim, rights, property, etc., is transferred; (b) A person appointed to act for another.

ASSIGNMENT

A Transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or right therein.

ATTACHMENT

(a) A taking of a person, property, etc., into custody; (b) A person appointed to act for another.

ATTACHMENT FOR DEFAULTER

A process issued by the court for the apprehension of a person other than a defendant. (See Attachment) (See Bench Warrant)

ATTESTATION

The act of witnessing an instrument in writing, at the request of the party making the same, and subscribing it as a witness.

ATTESTATION CLAUSE

That clause (e.g. at the end of a will) wherein the witnesses certify that the instrument has been executed before them, and the manner of the execution of same. A certificate certifying as to facts and circumstances attending execution of will.

ATTORNEY-IN-FACT

The individual who is designated in the power of attorney document to act on behalf of another.

AUTHENTICATION

The act or mode of giving authority or legal authenticity to a statute, record or other written instrument, or a certified copy thereof, so as to render it legally admissible in evidence.

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BAIL

(verb) To free a person arrested or imprisoned, on security being taken for his appearance on a day and a place certain before the court, which security is called "bail"; to deliver the defendant to persons who become security for his appearance in court.

(noun) The surety or sureties who procure the release of a person under arrest, by becoming responsible for his appearance at the time and place designated. Those persons who become sureties for the appearance of the defendant in court.

BAIL BOND

A guarantee by a corporate surety that a person will appear at a designated time and place, and a promise to pay a sum of money fixed by the court if the appearance is not made.

BAIL EXONERATION

To relieve the surety of liability on a bail or bail bond.

BAIL FORFEITURE

The loss of bail deposit for failure to appear in court at a designated time. Also, in traffic citation cases bail forfeiture describes a "paid ticket".

BAIL RECEIPT

A document given to a depositor of bail money to prove that bail was received.

BAIL TO STAND

Status or condition of bail which validly guarantees the next appearance of the defendant in court.

BAILIFF

A court attendant whose duties are to keep order in the courtroom and to have custody of the jury.

BAJI

Bar Approved Jury Instructions. A book of jury instructions from which the Court and counsel select instructions to be given to the jury in civil cases.

BASE TERM

Term of imprisonment selected by the court, low term, middle term, or high term, pursuant to the Determinate Sentencing Law.

BENCH

The desk where a judge sits in court. Also, a judge referred to singularly or as a body of judges.

BENCH WARRANT

An order issued at the direction of a judge, whether sitting on the bench or not, for the attachment or arrest of an individual; either in case of contempt, or where a complaint has been filed, or where an indictment has been found, or where a witness has failed to obey a subpoena.

BENEFICIARY

Person named in a will or insurance policy to receive money or property; person who receives benefits from a trust.

BEQUEATH

To give personal property by will to another. It is therefore distinguishable from "devise" which is properly used if realty.

BEQUEST

A gift by will of personal property; a legacy. Disposition of realty in will is termed "devise".

BIFURCATE

To divide into two parts or branches.

BIND OVER

To hold for trial.

BLOCKED ACCOUNT

An interest-bearing bank account established for a minor, upon order of the court, in which money from a settlement, award, judgment or other source is placed. Withdrawal of any portion of the funds from this account is blocked except upon application to the court, and an order thereon, to protect the interests of the minor until the age of majority is reached.

BONA FIDE (adjective)

Made in good faith; honestly, without fraud or unfair dealing.

BOND

An instrument with a clause, with a sum fixed as penalty, binding the parties to pay the same, conditioned however, that the payment of the penalty may be avoided by the performance by some one or more of the parties of certain acts.

BOND

(Probate) Obligation of a guarantor to pay a second party upon default by a third party in the performance the third party owes to the second party.

BOOKING

A process done by the police at the time of a suspect's arrest. Involves fingerprinting, photographing, and recording personal information.

BRIEF

(1) A written summary or condensed statement of a series of ideas or of a document. (2) A written statement prepared by one side in a lawsuit to explain its case. (3) A summary of published opinion in a cause prepared for studying the case.

BURDEN OF PROOF

The necessity of legal duty to prove a fact in dispute. The burden of proof is the obligation of a party to establish by evidence a necessary degree or belief concerning a fact in the mind of the trier of the facts; the burden of proving the issue or issues of a party's cause. In civil cases, the burden of proof is sustained by a preponderance of the evidence. In criminal cases, burden of proof must be sustained beyond a reasonable doubt and to a moral certainty.

BYPASS TRUST

Also called a marital life estate or an A-B trust. A trust designed to help couples with larger estates save money on estate taxes. A bypass trust allows each member of a couple to use the \$675,000 estate tax exemption.

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C.D.C.F.S.

California Department of Children and Family Services

C.D.C.S.S.

California Department of Child Support Services

C.D.S.S.

California Department of Social Services

CALENDAR

The cases set for hearing or trial in a specific department on a given date and time are referred to collectively as that department's calendar.

CALENDARED

A case which has been set for a specific date, time and department, whether for hearing or trial, is said to have been calendared.

CALIFORNIA YOUTH AUTHORITY

State Detention Facility designate for juveniles who have been ordered committed by the Juvenile Justice System after due process for violations of more serious offenses and/or longer histories of offenses.

CALJIC

(California Jury Instructions - Criminal) -- A book of jury instructions from which the Court and counsel select instructions to be given to the jury in criminal cases

CAPACITY

Legal capacity is the attribute of a person who can acquire new rights, or transfer rights, or assume duties according to the mere dictates of his/her own will, as manifested in acts, without any restraint or hindrance arising from his status or legal condition.

CASE

A complaint filed in criminal, traffic, or civil court.

CASE IN CHIEF

That part of a trial in which the party with the initial burden of proof presents evidence after which the party rests.

CASE LAW

A body of law created by judicial decisions.

CASE MANAGEMENT

Case Management is a process of monitoring and managing the progress of a court case as it moves through the system.

CACI

California Civil Instructions

CAUSE (OF ACTION)

The fact or facts which give a person a right to judicial relief. May refer to a specific allegation within a complaint, or used to denote the case as a whole.

CERTIFICATE OF PROBABLE CAUSE

An order signed by the court granting a defendant leave to appeal from a plea of guilty or nolo contendere.

CERTIFIED COPY

A copy of a paper which is verified to be a faithful replica of a document which is in the possession of the deputy making the certification. It is signed by the deputy and has an official seal affixed to it.

CERTIFIED PLEA

The "guilty" plea entered by the defendant at the court hearing in a felony matter. The defendant is then bound over for sentencing in superior court.

CERTIORARI

An appellate proceeding for re-examination of an action of an inferior tribunal. The name of a writ of review or inquiry.

CHALLENGES

Formal exceptions taken to the personal qualification of a judge about to preside at the trial of a cause, or a juror summoned for the trial of a cause.

CHANGE OF VENUE

The removal of a suit begun in one county to another county for trial.

CHARGE

An accusation or oral charge. A formal complaint, information, or indictment. A count. Accused or arraigned.

CHATTEL

An article of personal property, as opposed to real property. A thing personal and movable. It may refer to animate as well as inanimate property.

CITATION

(1) A form of writ issued by a court commanding the citee to appear in court on a specific date and time; (2) A reference to a specific code section or case used in support of a legal argument or opinion; (3) A traffic ticket issued to document alleged violation of a Vehicle Code Section.

CIVIL ACTION

An adversary proceeding for declaration, enforcement, or protection of right, or redress, or prevention of a wrong.

CLAIM OF EXEMPTION

A privilege allowed by law to a judgment debtor, by which he may hold property to a certain amount or certain classes of property, free from all liability to levy on.

CLERK'S TRANSCRIPT (ON APPEAL)

Those pleadings, minute orders, affidavits, written opinions of the Court, trial exhibits, etc., designated by the attorneys which have been filed or lodged during the course of the litigation process are put together with the appeal documents and collectively form the Clerk's Transcript.

CODE

A systematic collection, compendium or revision of laws, rules or regulations. California has official code of all laws in force, published by two publishers, DEERING and WEST.

CODICIL

A supplement to or an addition to a will, it may explain, modify, add to, subtract from, qualify, alter, restrain, or revoke provisions in existing will. Such does not purport to dispose of entire estate or to contain the entire will of testator, nor does it ordinarily expressly or by necessary implication revoke in toto a prior will.

COMMISSION

An authority issuing from a court, in relation to a cause before it, directing and authorizing a person or persons named to do some act or exercise some special function; usually to take the depositions of witnesses.

COMMISSIONER

A person appointed by the court who is given the power to hear and make decisions concerning certain limited legal matters e.g., traffic commissioner, small claims commissioner.

COMMITMENT ORDER

A court order directing that a person be kept in custody, usually in a penal or mental institution.

COMMITMENT/JUDGMENT OF DEATH

Court order commanding that a defendant be put to death.

COMMUNITY PROPERTY

Property owned by husband and wife as a kind of marital partnership.

COMPENSATORY DAMAGES

Damages to compensate the injured party for the injury or harm sustained and nothing more.

COMPLAINANT

One who applies to the court for legal redress. Used interchangeably with "plaintiff".

COMPLAINT

(1) In civil law, the original or initial pleading by which an action is commenced, or by which a claim for relief is set forth. (2) In criminal law, the complaint is a written statement of the essential facts constituting the offense(s) charged. In some instances, "complaint" is interchangeable with "information".

CONCURRENTLY

At the same time; running together.

CONDEMNATION

The process by which property of a private owner is taken for public use without his/her consent, but upon the award and payment of just compensation, being in the nature of a forced sale.

CONDITIONAL SENTENCE

Defendant to report only to the court and is not referred to the Probation Department for supervision.

CONFESSION

A voluntary admission made spontaneously by a person accused of crime, free from the influence of any extraneous disturbing cause, and not influenced by violence, threats, or promises.

CONFESSION OF JUDGMENT

The act of a debtor in permitting judgment to be entered against him by a credit, for a stipulated sum, by a written statement to that effect, without the institution of legal proceedings.

CONFIDENTIAL

A file or record that is not available for public viewing. Authorized viewing set forth in statute and/or court policy. Files and records so designated should be identified and receive special handling.

CONFLICT OF INTEREST

Refers to a situation when someone, such as a lawyer or public official, has competing professional or personal obligations or personal or financial interests that would make it difficult to fulfill his duties fairly.

CONFORM

To make copies resemble the original document; To endorse file copies of an original document.

CONSANGUINITY

Kinship; blood relationship; the connection or relation of persons descended from the same stock or common ancestors. Consanguinity is distinguished from "affinity" which is the connection existing in consequence of a marriage between each of the married persons and the kindred of the other.

CONSECUTIVELY

Successive; succeeding one another in regular order; to follow in uninterrupted succession.

CONSERVATEE

A person whom the court has decided is unable to care for himself or herself or to manage his/her own financial affairs, and for whom a conservator has been appointed.

CONSERVATOR

A person or organization appointed by the court to arrange for a conservatee's personal care, to manage the conservatee's finances or both.

CONSERVATOR OF THE ESTATE

A person or organization appointed by the court to manage the financial affairs of a person whom the court has decided is unable to do so (the conservatee).

CONSERVATOR OF THE PERSON

A person or organization appointed by the court to arrange for the personal care and protection of a person whom the court has decided is unable to do so (the conservatee).

CONSERVATORSHIP

A court proceeding to appoint a manager for the financial affairs or the personal care of one who is either physically or mentally unable to handle either or both.

CONSERVATORSHIP ESTATE

The conservatee's income and assets.

CONSOLIDATION

The act of joining two or more independent suits set in the same court which involve common questions of law or fact, for the purpose of a joint hearing or trial.

CONTEMPT OF COURT

An act or omission that obstructs the orderly administration of justice or impairs the dignity, respect, or authority of the court. May be demonstrated in behavior which shows intentional disregard of or disobedience of a court order both of which may be punishable by fine or imprisonment.

CONTESTED

A kind of case in which evidence is introduced by both parties.

CONTESTANT

A person who contests the eligibility of a will to be admitted to probate.

CONTINUE

To postpone to a later date.

CONTRACT

A promissory agreement between two or more persons that creates, modifies or destroys a legal relation.

CONVICTION

The result of a criminal trial which ends in a judgment or sentence that the defendant is guilty as charged, or guilty of an offense included in that which is charged.

COORDINATION

The act of joining two or more independent suits set in different courts of the same jurisdictional level, which involve common questions of law or fact, for the purpose of a joint hearings and trial.

CORPORATION

A group of persons who get a charter granting them as a body certain of the legal powers, rights, privileges and liabilities of an individual, distinct from those of the individuals making up the group.

COSTS

A pecuniary allowance made to the successful party (and recoverable from the losing party) for expenses incurred in prosecuting or defending a suit, or a distinct proceeding within a suit.

COUNT

The allegation or charge in a criminal indictment or information.

COUNTERCLAIM

A claim presented by a defendant in opposition to the claim of a plaintiff. A cross-complaint.

COURT

- (a) The judicial organ of government whose function is the application of the laws to controversies brought before it and the public administration of justice.
- (b) A body organized to administer justice, including both judge and jury.
- (c) Court (capitalized) the specific individual presiding over a legal proceeding.

COURT HOLD

Request by a court to keep a defendant in custody under obligation to return to the requesting court.

COURT REPORTER

A person who transcribes by shorthand or stenographically takes down testimony during court proceedings.

COURT TRIAL

A trial in which the trier of fact is the judge; a non-jury trial.

CREDITOR'S CLAIM

A document wherein a creditor demands payment for debt owed by the decedent.

CROSS-COMPLAINT

An action brought by one who is a defendant against a party who is a plaintiff or co-defendant in such suit, upon a cause of action growing out of the same transaction in which there is controversy.

CROSS-EXAMINATION

The examination of a witness upon a trial or hearing, by the party opposed to the one who produced that witness, on the evidence given in chief, to test its truth, to further develop it, or for other purposes.

CUSTODIAN

Under the Uniform Transfers to Minors Act, the person appointed to manage and disburse funds for a child without constricting court supervision and accounting requirements.

CUSTODY

The care and keeping of anything. As applied to parental rights over children, embraces the sum of such rights with respect to rearing of a child, including its care. As applied to a person in custody, implies that he/she is detained on authority so that he/she is not free to come and go at will.

CYA

(See "CALIFORNIA YOUTH AUTHORITY")

-D-

D.A.

(See "DISTRICT ATTORNEY")

D.C.S.F.

Department of Children and Family Services

D.C.S.S.

Department of Child Support Services

D.S.S.

Department of Social Services

DAMAGES

A pecuniary compensation or indemnity, which may be recovered in the courts by any person who has suffered loss, detriment or injury, whether to his person, property or rights, through the unlawful act or omission or negligence of another.

DEATH WARRANT

Court order setting date for execution.

DECEASED

A dead person.

DECEDENT

In probate matters, refers to a deceased person, in criminal law, refers to the victim of a homicide.

DECEDENT'S ESTATE

Property, both real and personal, which person possesses at the time of his/her death, and title to it descends immediately to his/her heirs upon his/her death subject to the control of the probate court for the purpose of paying debts and claims and after distribution the estate ceases to exist.

DECISION

The judgment rendered by a court after a consideration of the facts and legal issues before it.

DECLARATION

In the law of evidence, an unsworn statement evidencing, supporting, and establishing in writing made by a person and which is certified or declared under penalty of perjury to be true and correct. All declarations must be dated and signed by the declarant and must show the place of execution and name the state wherein the document was executed or otherwise, that the declaration is made under the laws of the state of California.

DECREE

A declaration of the court announcing the legal consequences of the facts found. While often used as a generic term for any judgment or order issued by the court, it has generally been replaced by the term "judgment".

DEED

A written legal document that describes a piece of property and outlines its boundaries. The seller of a property transfers ownership by delivering the deed to the buyer in exchange for an agreed upon sum of money.

DEFAULT

(1) A flexible term for the omission of that which a person ought to do. (2) The failure to plead or otherwise defend an action, by a party against whom a judgment for affirmative relief is sought.

DEFAULT JUDGMENT

A judgment entered upon the failure of a party to appear or plead, or take some required step in the cause at the appointed time.

DEFENDANT

The party against whom an action is brought, a warrant is issued, or an indictment is found.

DEPENDENT

In family law, refers to a person who is financially supported by another person, usually the parent. In juvenile law, refers to a minor who is in the custody of the court because he or she has been abused, neglected, or molested.

DEVISEE

Any person designated in a will to receive a devise.

DISBURSEMENTS

Legal expenses that a lawyer passes on to a client, such as for photocopying, overnight mail and messenger services.

DELIBERATIONS

The act of weighing and examining the reasons for and against a contemplated act or course of conduct or a choice of acts or means. In the judicial system, commonly used to denote that time at the conclusion of the case when the jury retires to consider the evidence presented and reach their verdict.

DELINQUENT CHILD

(Juvenile) A minor who falls into the provisions of Sec. 602 or 601 of the Welfare and Institutions Code.

DEMURRER

A formal response to a pleading which admits the allegations to be true, for the purpose of argument, but attacks the technical merits of the pleading. It imports that the party demurring will stay, and not proceed, until the Court decides whether he/she is bound to do so.

DE NOVO

Anew, afresh. A trial de novo is the trying a matter anew, the same as if it had not been heard before and if no decision had be previously rendered.

DENY

To give negative answer or reply to. To refuse to grant or accept.

DEPENDENT CHILD

(Juvenile) A minor who falls within the provisions of Section 300 of the Welfare and Institutions Code.

DEPOSITION

A written record of oral testimony, in the form of questions and answers, made before a public officer for use in a lawsuit for the purpose of discovery of information, or for the purpose of being read as evidence at a trial, or for both purposes.

DEPUTY

One appointed to substitute for another with power to act in his/her name or on his/her behalf.

DETENTION HEARING

(Juvenile) Hearings conducted within the Juvenile Justice System to determine whether for the protection of the minor or society, it would be better to detain the minor in Juvenile Hall or release the minor to parent(s) and/or legal guardian(s) pending further proceedings.

DETERMINE (sentence)

Confinement for a fixed period as specified by statute.

DEVELOPMENTAL DISABILITY

A disability which originates before an individual attains age 18, continues, or can be expected to continue indefinitely, and constitutes a substantial handicap for such individual. This term includes mental retardation, cerebral palsy, epilepsy, and autism. It also includes handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but does not include handicapping conditions that are solely physical in nature.

DEVISE

A testamentary disposition of land or realty; a gift of real property by the last will and testament of the donor.

DIAGNOSTIC STUDY

Tests to determine and recommend appropriate treatment and confinement for defendant.

DIRECTED VERDICT

A verdict granted by the court when the party with the burden of proof has failed to present sufficient evidence of a genuine issue of material fact that must be submitted to a jury for its resolution
(see "VERDICT")

DIRECT EXAMINATION

The first interrogation of a witness by the party on whose behalf he/she is called.

DISCLAIMER

The repudiation or renunciation of a claim or power vested in a person or which he/she formerly alleged to have. The disavowal, denial or renunciation of an interest, right or property imputed to a person or alleged to be his/hers.

DISCOVERY

The disclosure by a party of facts, titles, documents or other things which are in his/her exclusive knowledge or possession, and which are necessary to the party seeking the discovery as part of a cause of action pending or to be brought in another court, or as evidence of his rights or title in such proceeding. (also see "LAW AND MOTION")

DISMISSAL

An order or judgment finally disposing of an action, motion. May be ordered by Court or may be requested by the initiating party.

DISMISSAL WITH PREJUDICE

When a case is dismissed for good reason and the plaintiff is barred from bringing an action on the same claim.

DISMISSAL WITHOUT PREJUDICE

When a case is dismissed but the plaintiff is allowed to bring a new suit on the same claim.

DISPOSITION

The settling of a case by agreement of the parties without having a trial.

DISPOSITIONAL HEARING

(Juvenile) Hearings conducted within the Juvenile Justice System after the allegations within the petition have been adjudicated and sustained ``in order to determine the final treatment of the minor. (Sentencing)

DISPUTABLE PRESUMPTION

Evidence which may be accepted and acted upon when there is no other evidence to uphold the contention for which it stands. An inference of law which holds good until it is invalidated by proof or a stronger presumption.

DISSOLUTION OF MARRIAGE

The act of terminating a marriage; divorce; but the term does not include annulment.

DISTRICT ATTORNEY

The officer elected or appointed for the judicial district who is charged with the duty of prosecuting all persons charged with violations of criminal laws.

DIVERSION

A disposition of a criminal defendant, either before or after adjudication of guilt, in which the Court directs the defendant to participate in a work or educational program as part of a probation.

DOCKET

A record of proceedings had, documents filed, fees paid, court orders, and judgment in a criminal case. The term "docket" is sometimes also used to refer to the calendar of cases for a certain day.

DOE

A designation used in a complaint to allow for naming additional defendants at a later date as they are discovered.

DOE AMENDMENT

A form used to amend a "doe" designation for a defendant to an individual's name upon ascertaining the party's actual identity.

DOMESTIC PARTNER

A domestic partnership is usually understood to mean two unrelated, unmarried adults who share the same household.

DOMESTIC LAW

That branch of law dealing with matters of the household or family, including divorce, separation, custody, support and adoptions. (Also called "Family Law")

DUE PROCESS

The idea that laws and legal proceedings must be fair. The Constitution guarantees that the government cannot take away a person's basic rights to "life, liberty or property, without due process of law." Courts have issued numerous rulings about what this means in particular cases.

DURABLE POWER OF ATTORNEY

A written legal document that lets an individual designate another person to act on his or her behalf, even in the event the individual becomes disabled or incapacitated.

DURABLE POWER OF ATTORNEY FOR HEALTH CARE

A written legal document that allows an individual to designate another person to act on his or her behalf with regard to their health care decisions.

-E-

ELECTIVE SHARE

Refers to probate laws that allow a spouse to take a certain portion of an estate when the other spouse dies, regardless of what was written in the spouse's will.

ENCUMBRANCE

Any claim or restriction on a property's title.

EMINENT DOMAIN

The power of the state to take private property for public use.

ENDORSEMENT

That which is written on the back of a negotiable instrument; also used with reference to writs, insurance policies, stock certificates.

ENHANCEMENTS

Allegations which, if proved, add to punishment for crime.

EQUITY

A body of jurisprudence, or field of jurisdiction, differing in its origin, theory and methods from the common law.

ERROR CORAM NOBIS

Error committed in the proceedings "before us; i.e., error assigned as a ground for reviewing, modifying or vacating a judgment in the same court in which it was rendered. A writ to bring before the court that pronounced judgment, errors in matters of fact which had not been put in issue or passed on and were material to validity and regularity of legal proceedings itself.

ERROR CORAM VOBIS

Error in the proceedings "before you"; words used in a writ of error directed by a court to review to the court which tried the cause.

ESCHEAT

A transfer of property to the state government by operation of law, because of its abandonment or lack of a private owner.

ESCROW

Money or documents, such as a deed or title, held by a third party until the conditions of an agreement are met. For instance, pending the completion of a real estate transaction, the deed to the property will be held "in escrow."

ESCROW ACCOUNT

A special account in which a lawyer or escrow agent deposits money or documents that do not belong to him or his firm.

ESTATE

All the property a person owns.

EXECUTOR

Person named in a will to oversee and manage an estate. This person will collect the property, pay any debt, and distribute the property or assets according to the decedent's will.

ESTOPPEL

A legal bar to alleging or denying a fact because of one's own actions or words to the contrary.

ET AL

An abbreviation for et alius meaning, "and another" in the singular form. In the plural, ET ALS. is the abbreviation for et alii, meaning "and others". The abbreviation is often affixed to the name of the first person mentioned, where there are several plaintiffs, grantors, persons addressed, defendants, etc.

ET SEQ.

An abbreviation for et sequentes (masc/fem. pl.) or et sequentia (neut.) meaning, "and the following." Thus a reference to "Section 300, et seq." means "Sections 300, and the following sections."

ET UX.

An abbreviation for et uxor -- "and wife".

ET VIR

A term meaning, "and husband".

EVIDENCE

Testimony, writings, material objects or other things offered to the Court to prove the existence or nonexistence of a fact. Proof, either written or unwritten, of allegations at issue between parties. There are many different types of evidence including DIRECT, INDIRECT, CIRCUMSTANTIAL, SUBSTANTIVE, CORROBORATIVE, INTRINSIC, EXTRINSIC, DERIVATIVE, OR PAROLE.

EXECUTION

(1) The process of carrying out a court's judgment, decree or order. (2) Imposition of sentence of death. (See 'WRIT OF EXECUTION')

EXECUTION OF SENTENCE

Putting into effect a final judgment of the court.

EXECUTION SUSPENDED

Stay of punishment or judgment previously imposed.

EXECUTOR

A person appointed by a testator to carry out the directions and requests in his will, and to dispose of the property according to his testamentary provisions after his decease. Such a person may be male (executor) or female (executrix).

EXEMPLIFICATION

A formal process of certification which requires the signatures of the Clerk of the Court, the Presiding Judge certifying the documents and attesting to the authenticity of the other.

EXHIBIT

A paper, document or item of physical evidence produced and offered to the court for inspection during a trial or hearing; on being accepted, the exhibit is marked for identification and may be received into evidence.

EXONERATION

The removal of a burden, charge, responsibility or duty. A bail which is ordered exonerated, is ordered returned to the party who posted it either on his own behalf or on behalf of another.

EX PARTE

Latin that means "by or for one party." Refers to situations in which only one party (and typically not the adversary) appears before a judge.

EXPERT EVIDENCE

Testimony given in relation to some scientific, technical, or professional matter by experts, i.e., persons qualified to speak authoritatively by reason of their special training, skill, or familiarity with the subject.

EXPERT WITNESS

A person selected by the court or parties in a cause, because of his/her knowledge, special training or skill, to examine, estimate and ascertain things and thereafter testify as to his/her opinion.

EXPUNGE

To destroy; blot out; obliterate; erase; efface designedly; strike out wholly. The act of physically destroying information -- including criminal records -- in files, computers or other depositories.

EXTRADITION

The surrender by one state to another of an individual accused or convicted of an offense outside its own territory, and within the territorial jurisdiction of the other.

-F-

FACSIMILE

An exact copy or reproduction, as of a document.

FALSE ARREST

Any unlawful physical restraint on another's liberty, whether in prison or elsewhere.

FAMILY LAW

That branch of law dealing with matters of the household or family, including divorce, separation, custody, support and adoptions. (Also called "Domestic Law")

FAX FILING

File documents by facsimile machine.

FEE CHECK

Refers to the process of determining if the party seeking to file a document has previously paid the appropriate appearance fee as required. Fee checks may be performed by checking of the actual file, the microfiche, or the computer record.

FEE WAIVER

(See "IN FORMA PAUPERIS")

FELONY

A crime which is of relatively serious nature, for which the maximum penalty can be death or imprisonment in the state penitentiary, regardless of such lesser penalty as may in fact be imposed.

FIDUCIARY

A broad term for someone who has a duty to act for the benefit of someone else, who must subordinate his personal interests to that duty in the event there is a conflict.

FILE STAMP

Placing formal receipt by the clerk of the court of a document or pleading in an action pending before the court.

FILING

Making papers a part of the court record by placing a clerk's filing stamp on them, dating and signing the file stamp, and recording the filing.

FINDING

A determination of fact by a judicial officer or jury.

FINE

Sum of money imposed by court on a person or entity.

FORECLOSURE

A proceeding which bars or extinguishes a mortgagor's right of redeeming a mortgaged estate.

FORFEITURE

The loss of property or money due to breach of a legal obligation.

FORCIBLE ENTRY AND DETAINER

A summary proceeding for restoring possession of land to one who has been wrongfully deprived of possession.

FORGERY

The false making or material altering, with intent to defraud.

FORUM NON CONVENIENS

An inconvenient court.

FRAUD

An intentional perversion of truth; deceitful practice or device resorted to with intent to deprive another of property or other right, or in some manner do him injury.

-G-

GCI MACHINE (Gas Chromatograph Intoximeter)

An instrument frequently used for measuring the amount of alcohol in a person's blood.

GARNISHMENT

A proceeding whereby property, money or credits of a debtor, in possession of another, are applied to the debits of the debtor.

GRAND JURY

A body of citizens who are sworn to inquire of public offenses which are committed in or are triable within the County. The number of grand jurors is determined by the County's population. Those with a population of less than four million have grand juries composed of 19 members, while counties with populations which exceed this limit have grand juries composed of 23 members.

GRANT

(1) To give or permit as a right or privilege, e.g., the Court may grant a motion to file documents after the statutorily prescribed time in certain instances; (2) A conveyance, i.e., a transfer of title by deed or other instrument.

GRANTOR

The person who transfers assets into a trust for the benefit of another. (also known as a Trustor).

GUARDIAN

One who legally has the care and management of the person or the estate or both, of a child during his minority.

GUARDIAN AD LITEM

A special guardian appointed by the court to prosecute or defend, on behalf of a minor or incompetent, a suit to which that individual is party. While acting in this capacity, such guardian is considered an officer of the court (rather than a party litigant) to represent the interests of the minor or incompetent in the litigation.

GUARDIANSHIP

The office, duty or authority of a guardian. Also, the relation subsisting between guardian and ward.

-H-

HABEAS CORPUS (ad subjiciendum)

A writ directed to the person detaining another and commanding him to produce the body of the prisoner or person detained. This is the most common form of habeas corpus writ, the purpose of which is to test the legality of the detention or imprisonment; not whether he is guilty or not. Also used in Mental Health cases.

HEARING

Proceedings in court in which the parties present to the court evidence and arguments on a specific issue. (as in an Order to Show Cause hearing or a trial).

HEARSAY

A term applied to that species of testimony given by a witness who relates not what he/she knows personally, but what others have told him/her, or that has been overheard.

HEIRS

Persons who are entitled by law to inherit the property of the deceased if there is no will specifying how it's divided.

HOLOGRAPHIC WILL

An unwitnessed handwritten will. A few states, including California, allow such documents to be admitted to probate.

IMPEACHMENT

Attacking the veracity and credibility of a witness with prior inconsistent statements, contradiction of facts, bias or character.

IMPOSITION SUSPENDED

Stay of imposing actual judgment.

INCAPACITY

The lack of ability to act on one's own behalf.

IN FORMA PAUPERIS

In the character or manner of a pauper. The statutory provision for allowing indigent persons to proceed in their litigation without liability for court fees and costs.

INDETERMINATE (sentence)

Duration is governed by statute and by behavior of defendant.

INDICTMENT

(1) An accusation in writing found and presented by a grand jury, legally convoked and sworn, to the court in which it is impaneled, charging that a person therein named has done some act, or been guilty of some omission, which by law is a public offense, punishable on indictment. (2) A formal written accusation originating with a prosecutor and issued by a grand jury against a party charged with a crime.

INDIGENT

Impoverished hardship and deprivation. One who is needy or poor.

INFRACTION

The act of infringing: "violation". A crime not punishable by imprisonment.

INFORMATION

An accusation exhibited against a person for some criminal offense, without an indictment. A written accusation made by a public prosecutor, without the intervention of a grand jury. (See also "COMPLAINT (2)")

INJUNCTION

A flexible, discretionary, process of preventative and remedial justice, which is exercised by courts that have equity powers. Courts issue injunctions when it appears that the ordinary remedy usually provided by the law is not a full, adequate and complete one. Injunctions are preliminary, preventative, provisional or interlocutory, if they are granted on the filing of a bill, or while the suit is pending, to restrain the party enjoined from doing or continuing to do the acts complained of, until the final hearing or the further order of the court. They are final, perpetual, or permanent, if they are awarded after the full hearing on the merits, and as a final determination of the rights of the parties.

IN PROPRIA PERSONA

(IN PRO PER) In one's own person; not by an attorney.

IN REM

An act or proceeding done or directed with reference to no specific person, and consequently against or with reference to all whom it might concern, or "all the world." Signifies that a judicial proceeding operates on a thing, as opposed to a person.

INSTRUCTIONS

Directions given by the Court to the jury concerning the law of the case.

INTEREST

The compensation allowed by law or fixed by the parties for the use or forbearance or detention of money.

INTERLINEATION

The act of writing between the lines of an instrument.

INTERLOCUTORY

Incident to a suit still pending. An order or decree made during the course of a case which does not amount to a final decision is termed interlocutory.

INTERPLEADER

The procedure when two parties are involved in a lawsuit over the right to collect a debt from a third party, who admits the money is owed but does not know which person to pay. The debtor deposits the funds with the court ("interpleads"), asks the court to dismiss him/her/it from the lawsuit and lets the claimants fight over it in court.

INTERROGATORIES

Written questions propounded on behalf of one party in an action to another party, or to someone who is not a party, before the trial thereof. The person interrogated must give his answers in writing, and upon oath.

INTERVENOR

A person who voluntarily interposes in an action or other proceeding with the leave of the court.

INTER VIVOS TRUST

A type of trust created during your lifetime to hold property for the benefit of another.

INTESTATE

To die without a will or leaving instructions for disposal of property after death.

IRREVOCABLE LIVING TRUST

A trust created during the maker's lifetime that does not allow the maker to change it.

-J-

JEOPARDY

The danger of conviction and punishment in which a person is placed when he is put on trial for a criminal offense.

JOINDER

The plaintiff, defendant or cross-complainant may join, as an independent or alternate claims, as many claims - either legal or equitable or both - as he may have against an opposing party.

JOINT TENANCY WITH RIGHT OF SURVIVORSHIP

Property that names a co-owner on its deed or title. At the death of one of the co-owners, the other will become the sole owner of the property, regardless of what may be conveyed in the will

JUDGMENT

The determination or decision of a court; the expression by a judge of the reasons for his decision. Judgments may be final, putting an end to the case; interlocutory, given in the progress of a case upon some matter which does not finally determine the case. They may be rendered on confession by the defendant; on default, when the defendant fails to appear, plead or otherwise defend, within the allotted time; or on the merits, after a full trial.

JUDGMENT CREDITOR

A person in whose favor a judgment for possession, acts, money has been entered, and is not satisfied.

JUDGMENT DEBTOR

A person owing a debt and against whom legal judgment for that debt as been entered.

JUDGMENT N.O.V.

(Judgment non obstante verdicto) A judgment notwithstanding the verdict. A judgment rendered upon a motion made after the jury has returned a verdict in which the mover of the motion prevails in showing that he is entitled to judgment notwithstanding the verdict returned against him by the jury.

JURISDICTION

The authority of a particular court to hear and decide an action or lawsuit.

JURISDICTIONAL HEARING

The proceeding at which the Court determines whether allegations of abuse or neglect concerning a child are sustained by the evidence and if so, are legally sufficient to support state intervention on behalf of the child.

JURY

A certain number of people selected according to the law, and sworn to inquire of certain matters of fact, and declare the truth based upon evidence to be laid before them.

JURY INSTRUCTIONS

A direction given by the judge to the jury concerning the law of the case; a statement made by the judge to the jury informing them of the law applicable to the case in general or some aspect of it, which the jury are bound to accept and apply. Attorneys for both sides normally furnish the judge with suggested instructions. (See "BAJI" AND "CALJIC" and CACI)

JURY TRIAL

Trial of matter or cause before a jury as opposed to trial before judge.

JUS 8715

A "Disposition of Arrest and Court Action" form, ("JUS 8715" being the form number

-L-

L & M

(See "LAW AND MOTION")

L.P.S.

(See "LANTERMAN-PETRIS-SHORT ACT")

LANTERMAN-PETRIS-SHORT ACT

(Probate) The legislation which sets forth the proceedings for mentally disordered persons.

LAW AND MOTION

Those proceedings prior to and in preparation of trial, wherein questions of law are resolved and disclosure of facts and evidence is made. These matters are commonly referred to as law and motion and discovery proceedings, which include such items as demurrers to pleadings, motions to depose witnesses, change of venue, requiring production of documents, motions to amend pleadings, motions to strike, motions for summary judgment, etc.

LEAVE OF COURT

Permission obtained from a court to take some action which, without such permission, would not be allowable; as, to receive an extension of time to answer a complaint

LEGATEE

Also known as a beneficiary. Person named in a will to receive property.

LETTERS

(Probate) Letters are issued by order of the court, showing the person named to be the official representative of an estate or person.

Letters of Administration Instrument by which a person is empowered to take charge of the property of an intestate, to collect the credits and pay the debts of the estate.

Letters of Conservatorship Instrument by which a person is appointed to take care of the person and/or estate of an adult person who by reason of advanced age, illness, injury, mental weakness, intemperance, addiction to drugs, or other disability or other cause, is unable to properly care for himself or his property, or for said causes is likely to be deceived or imposed upon by artful or designing persons.

Letters of Guardianship Instrument by which a person is empowered to take charge of the person and/or estate of a minor child.

LETTERS ROGATORY

A formal communication in writing sent by a court in which an action is pending to a court or judge of a foreign country, requesting that the testimony of a witness resident within the jurisdiction of the latter court may be there formally taken under the court's direction and transmitted to the first court for use in the pending action.

LETTERS TESTAMENTARY

The instrument of authority under which a person named as an executor in a will formally takes charge of the estate and proceeds to carry out the directions of the will.

LEVY

(1) To assess, impose, or require a tax. (2) The act of a sheriff in subjecting property to the satisfaction of a court judgment. (3) The act of a sheriff in subjecting property to the lien of a court attachment.

LIEN

A charge or encumbrance upon property for payment of a debt; a legal claim.

LIS PENDENS

A pending suit. Jurisdiction, power or control which courts acquire over property in suit pending action and until final judgment.

LITIGANT(S)

A party to a lawsuit; one engaged in litigation; usually spoken of active parties, not of nominal ones.

LITIGATION

A lawsuit. Legal action, including all proceedings therein. Contest in a court of law for the purpose of enforcing a right or seeking a remedy. A judicial contest, a judicial controversy, a suit at law.

LIVING TRUST

A trust created during the maker's lifetime in which the grantor transfers some or all of his or her property into the trust. Some living trusts are set up so that they can be changed during the maker's lifetime. These are called "revocable." Others, known as "irrevocable," are set up so that they can't be touched.

LIVING WILL

Also known as a medical directive or advance directive. A written document that states a person's wishes regarding life-support or other medical treatment in certain circumstances, usually when death is imminent.

LODGE

To leave a document, record or other evidentiary item with the court for its reference and use during a hearing or trial. At the conclusion of the hearing or trial, the item is then returned to the submitting party without filing.

-M-

MAGISTRATE

One of the class of inferior judicial officers, such as justices of the peace, etc. An officer having the power to issue a warrant for the arrest of a person charged with a public offense, to conduct preliminary hearings, of persons charged with a crime, to discharge them for lack of sufficient evidence or commit them to jail to await trial, and to accept bail and release thereon.

MANDAMUS

(See "WRIT OF MANDAMUS")

MARITAL DEDUCTION

A deduction allowing for the unlimited transfer of any or all property from one spouse to the other generally free of estate and gift tax.

MECHANIC'S LIEN

A statutory claim created for the purpose of securing priority of payment of the price of the work performed and materials furnished in erecting or raising a building or other structure.

MEDIATION

MEMORANDUM OF COSTS

A certified, itemized statement of the amount of recoverable costs expended in an action or suit by the prevailing party.

MENTAL INCOMPETENCE

Inability to understand proceedings or assist counsel

MICROFICHE

The filmed record of each case file. Each document page is filmed and placed in a special jacket which allows ease of viewing.

MICROFILM

The filmed record of each case file. Each document page is filmed onto a reel which is then read through a microfilm reader.

MICROGRAPHICS

The process of filming every document which is filed with the Clerk of the Court.

MINOR

A person under the age of 18. A minor is usually defined as someone who has not yet reached the age of majority. In most states, a person reaches majority and acquires all of the rights and responsibilities of an adult when he or she turns 18. The term does not apply to an emancipated youth. In Juvenile, the subject of a Petition under Sections 602, 602 or 300., of the Welfare and Institutions Code.

MINOR'S COMPROMISE

("Compromise of Disputed Claim of Minor" or "Minor's Comp.") A case involving a claim by a minor which has been settled. The actual case may or may not have been previously filed with the court. The parties are appearing at this time to obtain court approval as to the settlement on behalf of the minor.

MINUTES/MINUTE ORDERS

A memorandum of the orders and proceedings of the court made by the clerk and maintained as a permanent record pursuant to statute.

MISDEMEANOR

An offense lower than a felony and generally punishable by a fine or imprisonment in the county jail.

MOOT

Of no significance or relevance.

MOTION

An application, written or oral, to the court, by parties or counsel for a ruling or order.

-N-

NEGLIGENCE

The failure to do something which a reasonable person, guided by those ordinary considerations which ordinarily regular human affairs would do; or the doing of something which a reasonable and prudent person would not do.

NEW TRIAL

A re-examination of an issue of fact in the same court after a trial and decision by a jury or court.

NOLO CONTENDERE

A Latin phrase meaning, "I will not contest it." In a criminal matter, if the defendant pleads "nolo contendere", he or she neither admits nor denies the charges.

NONSUIT

The name of a judgment given against a plaintiff when he/she is unable to prove a case, or when he refuses or neglects to proceed to trial and leaves the issue undetermined. A motion for nonsuit is in the nature of a demurrer to the evidence.

NOTARY PUBLIC

A public officer whose function is to administer oaths; to attest and certify by his hand and seal certain documents in order to give them credit and authenticity in foreign jurisdictions.

NOTICE

Information given to a person of some act done or about to be done.

NULLITY

The entire invalidity of a supposed, pretended, or attempted marriage, by reason of relationship or incapacity of the parties or other detrimental impediments. An action seeking a decree declaring such an assumed marriage to be null and void is called a suit of nullity of marriage. It differs from an action for dissolution because the latter supposes the existence of a valid and lawful marriage.

NUNC PRO TUNC

A Latin phrase meaning. "Now for then". Applied to acts that are allowed to be done after the time when they should have been done. It is a retroactive correction and something that was not done, or done wrong in the past, and applies only to ministerial functions and not those involving discretion.

-O-

OATH

A solemn affirmation, declaration, or promise made under a sense of responsibility for the truth of the matter stated.

OSC

(See "ORDER TO SHOW CAUSE")

OPENING STATEMENT

An outline of anticipated proof. Its purpose is to advise the jury or court of facts relied upon and of issues involved, and to give the jury or court a general picture of the facts and situations so that the jury or court will be able to understand the evidence.

OPPOSITION

(1) Act of opposing or resisting. (2) A position confronting another or placing in contrast; that which is or furnishes an obstacle to some result.

ORDER

Every direction of a court or judge made or entered in writing and not included in a judgment. An application for an order is a motion.

ORDER FOR APPEARANCE OF JUDGMENT DEBTOR

Court order commanding the judgment debtor to appear in court at a specific date and time, and to submit himself to questioning so that the judgment creditor may ascertain what assets are held which may be levied against so as to allow the judgment creditor to obtain satisfaction on the court judgment awarded.

ORDER TO SHOW CAUSE

Court order commanding appearance in court at a specific date and time and to show cause to the court's satisfaction why he or she should not be compelled to perform a certain act (or cease a certain act).

OVERRULE

The act of a court in rejecting a motion or objection made by a party to a lawsuit.

OWN RECOGNIZANCE (release)

Defendant is permitted to be at liberty during pendency of a criminal action or proceeding upon a written promise to appear as ordered.

-P-

PAROLE

The release of a prisoner whose term has not expired on condition of sustained lawful behavior that is subject to regular monitoring by an officer of the law for a set period of time

PARTIES

The persons who take part in the performance of any act, or who are directly interested in any affair, contract, or conveyance; or who are actively concerned in a legal proceeding.

P.D.

(See "PUBLIC DEFENDER")

P & S

(See "PROBATION AND SENTENCING")

PECUNIARY

Monetary; relating to money; financial; consisting of money or that which can be valued as money.

PENALTY PHASE

Portion of a trial whereby the trier of fact determines punishment to be imposed.

PENDENTE LITE

Pending the suit; during the actual progress of a suit; during litigation. These orders are most frequently made in dissolution cases after the filing of the suit and prior to trial, to obtain temporary orders for child support, child custody, spousal support, etc.

PEOPLE OF THE STATE OF CALIFORNIA

The mass of individuals who constitute the state of California. In a criminal case, the District Attorney represents the People of the State of California against whom the alleged crime has been committed.

PEREMPTORY CHALLENGE

A challenge which a party is allowed against a certain number of jurors, without assigning cause.

PERSONAL REPRESENTATIVE

A person who manages the legal affairs of another, such as an attorney-in-fact or executor.

PETITION

(1) A formal, written application to a court requesting judicial action on a certain matter. (2) An application made to a court ex parte, or where there are no judicial powers of the court in relation to some matter which is not the subject for a suit or action, or for authority to do some act which requires the sanction of the court; as for the appointment of a guardian, for leave to sell trust property etc.

PETITIONER

One who presents a petition to a court. In legal proceedings begun by petition, the person against whom action or relief is prayed, or who opposes the prayer of the petition, is called the "respondent".

PLAINTIFF

A person who brings an action; the party who complains or sues in a civil action and is so named on the record. A person who seeks remedial relief for an injury to rights. A person who initiates a lawsuit.

PLEA

(1) The formal response of a defendant to the charge in a civil lawsuit. (2) The defendant's response to criminal charges (guilty, not guilty, nolo contendere, not guilty by reason of insanity, once in jeopardy, former judgment of conviction or acquittal).

PLEADING

(1) A written document filed in an action or other legal proceeding, usually with a title which identifies its nature, such as a Complaint or Answer. (2) The process of making formal written statements on each side of the lawsuit to narrow down the field of controversy.

PLEA BARGAIN

A negotiation in which the defendant agrees to enter a plea of guilty to a lesser charge and the prosecutor agrees to drop a more serious charge.

POINTS & AUTHORITIES

A document used in support of or opposition to a motion containing points; distinct positions or questions of law and authorities; citations to statutes or judicial decisions which support the legal position contended.

POLLING OF JURY

To examine each juror separately, after a verdict has been given, as to his/her concurrence in the verdict.

POWER OF ATTORNEY

A written legal document that gives an individual the authority to act for another.

PRAYER

That portion of a complaint in a civil action which sets forth the requested relief or damages to which the plaintiff deems himself/herself entitled.

PREJUDICIAL

Tending to injure or impair; leading to premature judgment or unwarranted opinion.

PRELIMINARY HEARING

The hearing given to a person accused of a felony, by a magistrate or judge, exercising the functions of a committing magistrate, to ascertain whether there is evidence to warrant and require the commitment and holding to bail of the person accused.

PRELIMINARY INJUNCTION

An injunction granted at the institution of a suit, to restrain the defendant from doing or continuing some act, the right to which is in dispute; and which may either, be discharged or made perpetual, according to the result of the controversy, as soon as the rights of the parties are determined.

PREPONDERANCE (of the evidence)

Greater weight of evidence, or the evidence which is more believable and convincing than the other side's, not measured necessarily by the greater number of witnesses. Evidence which would prove that something is more likely to have occurred than not.

PRESUMPTION

A conclusion, or inference, drawn from the proven existence of some fact or group of facts. Presumptions may be either (a) of law and by the principles of law; (b) of law which may be disproved or rebutted by evidence; or (c) presumptions of fact, drawn by a judge from the evidence.

PRETRIAL

All-purpose type of conference prior to trial used to narrow issues to be tried, to secure stipulations as to matters and evidence to be heard, and to take all other steps necessary to aid in the disposition of the case.

PRIMA FACIE EVIDENCE

Evidence good and sufficient on its face; such evidence in the judgment of law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient.

PROBATE

The judicial process in which an instrument purporting to be the will of a deceased person is proven to be genuine or not; lawful distribution of the decedent's estate.

PROBATION REPORT

Sets forth history of crime, background of defendant and recommendations for sentencing. Used as a tool by counsel and the Court for plea negotiations and for sentencing.

PROBATION AND SENTENCING

The hearing held after the conclusion of a criminal proceeding in which the defendant, having been found guilty or pled guilty is formally sentenced by the court.

PROCESS

The means of compelling the defendant in an action to appear in court; or a means whereby a court compels a compliance with its demands. Also, a writ, summons or order issued in a judicial proceeding to acquire jurisdiction of a person or his/her property, to expedite the cause or enforce the judgment.

PROCESS SERVER

The individual effecting service of process.

PRO HAC VICE

A Latin phrase meaning "for this occasion". An attorney from out of state wishing to represent a client in California for a specific case will be required to obtain special permission from the court to act as "counsel pro hac vice".

PROOF OF SERVICE

("POS") The document filed with the court record to provide formal proof that a pleading was served on a party to the action. The document contains an affidavit of the person effecting service showing the date and manner of service, and other requirements as set forth by the Code of Civil Procedure.

PRO PER

(See "IN PROPRIA PERSONA")

PRO TEMPORE

From the Latin "For the time being" or "temporarily"; a referee or commissioner sitting temporarily and provisionally for a judge; same as pro tem.

PROTRACTED

Of considerable length; drawn out; extending over a period of time.

PROVE-UP HEARING

A term used to indicate the default hearing at which the plaintiff submits the necessary testimony and/or documentary evidence to prove the case to the court's satisfaction in order to obtain an award.

PROXIMATE CAUSE

That which, in a natural and continuous sequence, unbroken by an efficient intervening cause, produces the injury and without which the result would not have occurred.

PUBLICATION

Under California law, the publication of a summons is the process of giving it currency as an advertisement in a newspaper, under the conditions prescribed by law, as a means of giving notice of the suit to a defendant upon whom personal service cannot be made.

PUBLIC DEFENDER

An attorney appointed by a court or employed by a government agency whose work consists primarily in defending indigent defendants in criminal cases.

PUNITIVE DAMAGES

Damages in a civil action which may be recovered in addition to compensatory damages and which are said to be for sake of example and by way of punishing the defendant. Same as "exemplary damages".

-Q-

QUASH

To annul or suppress, e.g., an indictment, a subpoena or an order; to vacate, to make void.

QUASI

(Latin) As if; almost. Often used to indicate significant similarity or likeness to the word that follows, while denoting that the word that follows must be considered in a flexible sense.

-R-

RE

In the matter of; in the case of.

REAL PROPERTY

Land and all the things that are attached to it. Anything that is not real property is personal property and personal property is anything that isn't nailed down, dug into or built onto the land. A house is real property, but a dining room set is not.

REBUTTAL

The introduction of rebutting evidence; the showing that statements of witnesses as to what occurred is not true; the stage of a trial at which such evidence may be introduced; also the rebutting evidence itself.

RECUSE

Remove someone for being prejudiced or otherwise incompetent to act.

REGISTER OF ACTIONS

A series of records which contain information for each civil case filed. Each page contains the title of each cause, the case number, the date it is commenced, the attorneys of record, fees paid, subsequent proceedings had and documents filed.

REGISTRATION

Requirement for defendants convicted of sex and narcotic offenses. Register with chief of police of city of residence or sheriff of county if place of residence is unincorporated.

REINSTITUTE

Reinstate or restore proceedings to the prior criminal mode.

REINSTATED

Placed again in former state or condition.

REMAND

To send a lawsuit back to the same court from which it came, for trial or other action.

REMITTITUR (OF RECORD)

The returning or sending back by the reviewing court to the trial court.

REPORTER'S TRANSCRIPT

The written transcription of the court reporter's notes as taken during a cause. This transcript provides a word-for-word account of the proceedings.

RES

A thing; an object; a subject matter; a status.

RESIDUARY ESTATE

Also known as residue of the estate. Portion of the estate left after bequests of specific items of property are made. Often the largest portion.

RESIDUARY LEGATEE

The person or persons named in a will to receive any residue left in an estate after the bequests of specific items are made.

RES IPSA LOQUITUR

The thing speaks for itself. Rebuttable presumption that defendant was negligent, which arises upon proof that instrumentality causing injury was in defendant's exclusive control, and that the accident was one which ordinarily does not happen in the absence of negligence.

RESPONDENT

A party against whom a petition or motion is filed in the course of a lawsuit; analogous to a defendant or an appellee.

RESPONSE

Formal written statement made by a respondent setting forth the grounds of his reply. Generally denotes the written reply to a motion or petition.

RESTITUTION

Payment to victim or society in money or services for loss, damages or injury.

RESTITUTION FUND

Fund established pursuant to 1202.2 4(b) to assist persons filing claims and to provide assistance for victims and witnesses. Defendants convicted of misdemeanors or felony shall be ordered to pay a restitution fine to this fund.

RESTRAINING ORDER

An order which may issue upon the filing of an application or petition forbidding the defendant or respondent to do certain acts until a hearing can be held.

RETROACTIVE

Made effective as of a date prior to enactment, promulgation, or imposition.

REVOCABLE LIVING TRUST

A trust created during the maker's lifetime that can be changed. Allows the creator to pass assets on to chosen beneficiaries without going through probate.

REVOKED

Annulled; rescinded; recalled.

RIGHT OF SURVIVORSHIP

In a joint-tenancy, the property automatically goes to the co-owners if one of the co-owners dies. A co-owner in a joint tenancy cannot give away his or her share of the property.

ROLL CALL

Calling off a list of names for taking attendance.

-S-

SATISFACTION OF JUDGMENT

The discharge of an obligation by paying a party what is awarded to him/her by the judgment of the court or otherwise; thus, a judgment is satisfied by the payment of the amount due to the party who has recovered such judgment, or by his levying the amount.

SEALED FILE

A file which, by court order, has been ordered sealed and may only be examined by order of that court and all process, (e.g. microfilm) should be identified by the words "sealed by order of the court". Any examination of such files requires an order of the court.

SEAL

An embossed seal press or stamp which will print or emboss a seal that will reproduce legibly under photographic methods and may include the name of the judicial district or consolidated city and county upon it.

SEALING OF RECORDS

A procedure whereby a person who was a minor at the time of the commission of the offenses may petition the court to seal all records in connection with the offense pursuant to Section 781 of the Welfare and Institutions Code in Juvenile Court and under 1203.4 of the Penal Code in adult court.

SEARCH WARRANT

An order in writing, issued by a magistrate, in the name of the state, directed to a sheriff, constable or other officer, authorizing search and seizure of any property that constitutes evidence of commission or involvement with a crime.

SENTENCING

The post conviction stage of the criminal justice process in which the defendant is brought before the court for imposition of punishment to be inflicted.

SEQUESTERED FILE

A file which, due to public interest, could conceivably be tampered with or mishandled. The file is maintained in a separate area and requires special handling. Could require approval of a superior before any examination may occur.

SERVICE

The exhibition or delivery of a writ, summons and complaint, criminal summons, notice, order, etc., by an authorized person, to a person who is thereby officially notified of some action or proceeding in which he is concerned, and is thereby advised or warned of some action or step which he is commanded to take or to cease. Pleadings, motions, orders, etc., after the initial summons are normally served on the party's attorney unless otherwise ordered by the court.

Constructive Service Any form of service other than actual personal service; notification of an action or of some proceeding therein, given to a person affected by sending it to him/her in the mails or causing it to be published in the newspaper. Personal service of a writ or notice is made by delivering it to the person named, in person, or handing him/her a copy and informing him/her of the nature and terms of the original.

Publication Service of a summons or other process upon an absent or nonresident defendant, by publishing the same as an advertisement in a designated newspaper, with such other efforts to give actual notice as the particular statute prescribes.

Substituted Service Any form of service of process other than personal service, such as service by mail or by publication in a newspaper; service of a writ or notice on some person other than the one directly concerned; for example, the attorney of record, who has authority to represent or to accept service for that client..

SERVICE OF PROCESS

The act of delivering a writ or summons upon someone

SISTER STATE JUDGMENT

Enforcement is being sought in one state from a judgment rendered by a court of another state. The records and judicial proceedings, when properly authenticated, may then be opened as a new case in the court which has jurisdiction for purposes of enforcement. These actions are for money judgments and do not include support orders.

SPECIAL CIRCUMSTANCES

Allegations which, if proved, warrant the death penalty or life imprisonment without possibility of parole.

SPENDTHRIFT TRUST

A trust designed to keep money out of the hands of creditors. Often established to protect someone who is incapable of managing his or her financial affairs.

SPOUSAL RIGHT

The entitlement of one spouse to inherit property from the other spouse.
The right varies from state to state.

STANDING

The legal right to initiate a lawsuit. To do so, a person must be sufficiently affected by the matter at hand, and there must be a case or controversy that can be resolved by legal action.

STATUTE

An act of the legislature declaring, commanding or prohibiting something; a word used to designate legislatively-created law as distinct from court-decided or case law.

STATUTE OF LIMITATIONS

(Civil) A statute prescribing limitations to the right of action on certain described causes of action; that is, declaring that no suit shall be maintained on such causes of action unless brought within a specified period after the right accrued. See Code of Civil Procedure, Sec. 335, et seq.

STATUTE OF LIMITATIONS

(Criminal) The limit of time after the commission of the offense within which prosecution must be commenced. See Sections 799 through 802 of the Penal Code.

STATUTORY

Relating to a statute; created, defined or required by a statute.

STEPPED -UP BASIS

Refers to the market value placed on inherited real estate. The beneficiary receives inherited property with a new basis of market value on the date of the decedent's death or on the alternate valuation date used by the estate. Example the decedent paid \$50,000 for his home which is worth \$200,000 when he died. You inherit the house. Your stepped-up basis will be \$200,000 for that house. If you sell the inherited property for \$210,000 net a few months later, your taxable profit will be only the \$10,000 difference between the \$200,000 stepped-up basis and your net sales price.

STIPULATION

(1) A material condition, requirement, or article in an agreement. (2) The name given to any agreement (written or verbal) made by the attorneys engaged on opposite sides of a cause, regulating any matter regarding to the proceedings or trial, which falls within their jurisdiction. (3) Voluntary agreement between opposing counsel concerning disposition of some relevant point so as to lessen the need for proof or to narrow range of triable issues.

SUA SPONTE

Upon its own responsibility or motion, as an order, "sua sponte", made by a court without prior motion by either party.

SUBPOENA

(Also spelled "SUBPENA") A writ commanding the appearance of a witness or party in court under a penalty in case of disobedience.

SUBPOENA DUCES TECUM

A process by which the court, at the request of a party, commands a witness who has some document in his possession that is pertinent to the issues of a pending controversy to produce it at the trial.

SUBROGATION

The substitution of one person in the place of another with reference to a lawful claim, demand or right, so that he/she who is substituted succeeds to the rights of the other in relation to the debt or claim and its rights, remedies or securities.

SUBSTITUTION OF ATTORNEY

A document filed with the clerk to place the court on formal notification that there has been a change in the attorney of record for a particular party.

SUMMARY JUDGMENT

A decision of a court concerning the merits of a lawsuit, which is rendered on the motion of a party, when the pleadings, depositions, answers to interrogatories and admissions on file, together with any affidavits, show there is no genuine issue as to any material fact, and that the party who made the motion is entitled to a judgment as a matter of law. A summary judgment may be issued either for the plaintiff or defendant and is issued as to the entire proceeding. When judgment is issued only as to a portion of the claim, it is called SUMMARY ADJUDICATION OF ISSUES.

SUMMONS

Instrument used to commence a civil action or special proceeding and is a means of acquiring jurisdiction of a party.

SURETY

One who undertakes to pay money or do any other act in the event that his principal fails therein.

SURETY BOND

An insurance policy taken out by a fiduciary with a national insurance company in which the company agrees to pay the estate the amount of the bond should the fiduciary mishandle or misappropriate the estate's assets.

SUSPEND

To stay or delay for a period of time on certain conditions; to cause a process to cease for a period of time; to postpone, as a judicial sentence.

SUSTAIN

(1) To grant, as when a judge sustains an objection to testimony or evidence, he or she agrees with the objection and gives it effect. (2) To support, to warrant -- said of evidence in connection with a verdict, decision, etc.

-T-

TANGIBLE PERSONAL PROPERTY

Anything other than real estate or money, including furniture, cars, jewelry and china.

TAXATION OF COSTS

The process of ascertaining and charging up the amount of costs in an action to which a party is legally entitled, or which are legally chargeable. Adjustment; fixing the amount.

TEMPORARY COMMITMENT

Form designed to inform detention facility and Sheriff of defendant's detention status and transportation requirements.

TENANCY IN COMMON

A type of joint ownership that allows a person to sell his share or leave it in a will without the consent of the other owners. If a person dies without a will, his share goes to his heirs, not to the other owners.

TESTAMENTARY TRUST

A trust created by the provisions in a will. Typically comes into existence after the writer of the will dies.

TESTATE

A person who has made a will or who has died leaving a valid will; opposite of intestate.

TESTATOR

The person who makes a will.

TORT

Any one of various, legally recognized, private injuries or wrongs, which do not arise as the result of a breach of contract.

TRIAL DE NOVO

A trial which is held for a second time as if there had been no former decision.

TRIER OF FACT

(1) Term includes (a) the jury and (b) the court when the court is trying an issue of fact other than one relating to the admissibility of evidence. (2) Commonly refers to judge in a jury waived trial, or jury which, in either case, has the exclusive obligation to make findings of fact in contrast to rulings of law which must be made by judge.

TRUE BILL

The endorsement made by a Grand Jury upon a bill of indictment, when they find the indictment sustained by the evidence laid before them, and are satisfied of the truth of the accusation.

TITLE

Ownership of property.

TOTTEN TRUST

A bank account in your name for which you name a beneficiary. Upon the death of the named holder of the account the money transfers automatically to the beneficiary.

TRUST

A written legal instrument created by a grantor during his or her lifetime or at death for the benefit of another. Property is given to a trustee to manage for the benefit of a third person. Generally the beneficiary gets interest and dividends on the trust assets for a set number of years.

TRUSTEE

The person named in a trust document who will manage the property owned by the trust and distribute any income according to the document. A trustee can be an individual or a corporate fiduciary.

TRUSTOR

The person who transfers assets into a trust for the benefit of another. (also known as a Grantor).

-U-

UNDERTAKING

A promise given in the court of legal proceedings by a party or his counsel, generally as a condition to obtaining some concession from the court or the opposite party. In California, the terms "bond" and "undertaking" are frequently used interchangeably.

UNLAWFUL DETAINER

(1) The unjustifiable retention of the possession of lands by one whose original entry was lawful and of right, but whose right to the possession has terminated and who refuses to quit, as in the case of a tenant holding over after the termination of the lease and in spite of a demand for possession by the landlord. (2) Actions of "unlawful detainer" concern only right of possession of realty, and differ from ejectment in that no ultimate question of title or estate can be determined.

-V-

VENUE

Venue deals with locality of suit, that is, with question of which court or courts, of those that possess adequate personal and subject matter jurisdiction may hear the specific suit in question.

VERDICT

The formal decision of finding made by a jury and accepted by the court after their deliberation upon the matters of fact submitted to them.

VERIFICATION

An oral or written statement that something is true, usually sworn to under oath.

VOIR DIRE

(1) A preliminary examination of a prospective juror in order to determine his or her qualifications to serve as a juror. (2) Occasionally, a preliminary examination of a witness in order to determine his or her capacity to speak the truth.

-W-

WAIVE TIME

A party to an action agrees that the matter may be continued beyond the statutory time.

WARD

A person placed by authority of law under the care of a guardian.

WARD OF THE COURT

A minor who is found to come within the provisions of Section 601 or 602 of the Welfare and Institutions Code may be declared a ward of the court.

WARRANT

A document issued by a magistrate or judge addressed to a sheriff, marshal, or other person authorized to arrest the body of the person named in the warrant and bring the person before the court to answer.

WILL

A legal document directing the disposal of the testator's property after their death.

WRIT

An order issued from a court requiring the performance of a specified act, or giving authority to have it done. Writs are either (a) prerogative, when the granting of them is in the discretion of the court; or (b) of right, when the applicant is entitled as of course.

WRIT OF ATTACHMENT

A writ used to enforce obedience to an order or judgment of the court; used primarily to seize a debtor's property in order to secure the debt or a claim of the creditor in the event a judgment is rendered; in most states, including California, attachment is allowed at or after the commencement of the main action until entry of judgment.

WRIT OF EXECUTION

A writ to put in force the judgment or decree of a court.

WRIT OF POSSESSION

The having, holding, or detention of property in one's power or command; actual seizing or occupancy; ownership.

WRIT OF MANDAMUS

A writ which issues from a court of superior jurisdiction, and is directed to a private or municipal corporation, or any of its officers, or to an executive administrative or judicial officer, or to an inferior court, commanding the performance of a particular act therein specified, and belonging to his/her or their public official, or ministerial duty, or directing the restoration of the complainant to rights or privileges of which he/she has been illegally deprived.

WRIT OF PROHIBITION

A writ which issues from a court of superior jurisdiction, and is directed to the judge and parties of a suit in an inferior court, commanding them to cease from the prosecution of the same, upon a suggestion that the cause originally, or some collateral matter arising therein, does not belong to that jurisdiction, but to the cognizance of some other court.